

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

MONDAY, THE SEVENTEENTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and

THE HON'BLE SRI JUSTICE M.NARAYANA REDDY

W.A.No. 1817 OF 2004 & W.P.No. 9264 OF 2004.

WRIT APPEAL No. 1817 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated
28/07/2004 in WVMP No.1609/2004 in WPMP No.11894/2004 in WP No 9264 OF
2004 on the file of the High Court.)

Between:

1. The Commissioner of Prohibition & Excise, Government of A.P., Hyderabad.
2. The Deputy Commissioner of Prohibition & Excise, Hyderabad Division,
Hyderabad.
3. The Joint Commissioner of Prohibition & Excise, Hyderabad.
- 4.The Prohibition & Excise Sub-Inspector, Prohibition & Excise Station, Dhoolpet,
Hyderabad.
- 5.The Prohibition & Excise Sub-Divisional Officer, Dhoolpet, Hyderabad and Asst.
Superintendent,
Prohibition & Excise, Hyderabad.

..... APPELLANTS.

AND

M/s. Balaji Traders, H.No. 13-2-719/2, Rahimpura, Puranapool, Hyderabad rep by
Proprietor,
M. Ram S/o Veerappa R/o Asifnagar, Hyderabad.

.....RESPONDENT

Counsel for the Appellants: G.P. for Prohibition & Excise.

Counsel for the Respondent No.: MR.B.ADINARAYANA RAO

WRIT PETITION No. 9264 of 2004

Between:

M/s. Balaji Traders, H.No. 13-2-719/2, Rahimpura, Puranapool, Hyderabad, rep by its Proprietor M. Ram, S/o. Veerappa, Aged 48 years R/o. Asifnagar, Hyderabad.

..... PETITIONER

AND

- 1.The Commissioner of Prohibition & Excise A.P. Hyderabad.
- 2.The Deputy Commissioner, Prohibition & Excise, Hyderabad.
3. The Joint Commissioner, Prohibition & Excise, Hyderabad.
4. The Prohibition & Excise Sub-Inspector, Prohibition & Excise Station, Dhoolpet, Hyderabad.
- 5.The Prohibition & Excise Sub-Divisional Officer, Dhoolpet, Hyderabad and Asst. Superintendent,
Prohibition & Excise, Hyderabad - 4.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents in not allowing the petitioner to carry on his business of sale of molasses as illegal, arbitrary without jurisdiction and violation of Article 19(1) (g) of the Constitution of India and consequently direct the 1st respondent to take action against the other respondents for illegally interfering in the lawful trade of sale of molasses.

Counsel for the Petitioner: Mr. B.ADINARAYANA RAO

Counsel for Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following :

ORAL JUDGMENT:

(per Honourable Sri Devinder Gupta, the Chief Justice)

The Appeal arose out of an interim order passed by the learned Single Judge disposing of W.P.M.P. No.11894 of 2004 and W.V.M.P. No.1609 of 2004 in W.P.No. 9264 of 2004.

By the impugned order, learned Single Judge declined to vacate the interim order dated: 25.5.2004 and made the same absolute with the observations that as long as the sale of molasses is valid, there are no justifiable grounds for taking any action against the manufacturers of molasses.

With the consent of the parties, we have taken up the Writ Petition also for hearing along with this Appeal. Writ Petition has been filed by the respondent to declare the action of the appellants in not allowing the writ petitioner to carry on business of sale of molasses as illegal and arbitrary with further direction not to interfere in the lawful trade of sale of molasses.

It is not disputed on behalf of the appellants that possession, sale and manufacture of molasses are not prohibited. Only when it is found that the sale is for the purpose of doing some unlawful activity, or, activity prohibited by law, that, action can be taken by the officials of the appellants against the person, who is doing such unlawful activity, and, in case, a case is made out, against the manufacturer also, by launching appropriate criminal proceedings. But, so long as possession, manufacture and sale are lawful, no action can be taken. Therefore, we are of the view that the Writ Petition itself can be disposed of with the direction that appellants will not interfere in any manner, whatsoever, in writ petitioner's possession, selling and manufacturing of molasses, except, in accordance with law. It is made clear that, in case, it is found that the writ petitioner has indulged in unlawful activity, nothing will prevent the appellants from initiating appropriate proceedings against him. But, as long as the activity is carried on in accordance with law, there shall be no restraint by the appellants in possession, sale and manufacture of the molasses.

With the above directions, we dispose of the Writ Petition as well as the Writ Appeal. No costs.

DEVINDER GUPTA, C.J.

17.1.2005.

M.NARAYANA REDDY, J.

VR.

To

- 1.The Commissioner of Prohibition & Excise A.P. Hyderabad.
- 2.The Deputy Commissioner, Prohibition & Excise, Hyderabad.
3. The Joint Commissioner, Prohibition & Excise, Hyderabad.
4. The Prohibition & Excise Sub-Inspector, Prohibition & Excise Station, Dhoolpet, Hyderabad.
- 5.The Prohibition & Excise Sub-Divisional Officer, Dhoolpet, Hyderabad and Asst. Superintendent,
Prohibition & Excise, Hyderabad - 4.
6. Two CCs to Government Pleader for Prohibition & Excise, High Court Buildings, Hyderabad (OUT).
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